<div align="right">**ARC 9989B**</div>

SECRETARY OF STATE[721]

<div align="center">**Adopted and Filed Emergency**</div>

Pursuant to the authority of Iowa Code sections 47.1 and 17A.3, the Secretary of State hereby amends Chapter 21, "Election Forms and Instructions," Chapter 22, "Voting Systems," and Chapter 28, "Voter Registration File (I-Voters) Management," Iowa Administrative Code.

These amendments are necessary to:

● Expand the ability of all active members of the military serving outside the United States and its territories to return voted ballots electronically,

● Adopt a provisional voter statement by administrative rule as required by Iowa law,

● Adopt procedures for making photocopied ballots on election day as required by Iowa law,

● Establish which ballots provisional voters at satellite voting stations should receive,

● Establish a procedure for voters whose registration status is changed to inactive between the time the absentee ballot is requested and absentee ballots are mailed,

● Establish a procedure by which absentee voters can cure defects in absentee ballots caused by reregistration in another county or precinct after the absentee ballot has been submitted to the commissioner pursuant to Iowa Code section 53.18,

● Establish a method for determining the number of signatures required for the primary election where the method of electing county supervisors has changed from at-large to plan III,

● Establish a procedure for reporting election night results electronically to the state commissioner for primary and general elections, and

● Update the cross-state match voter file procedures to make them compliant with the National Voter Registration Act of 1993.

Pursuant to Iowa Code section 17A.4(3), the Secretary of State finds that notice and public participation are unnecessary because these amendments are either required by federal law or Iowa law or are necessary to address very technical election administration and voter registration file management issues.

Pursuant to Iowa Code section 17A.5(2)"b"(2), the Secretary of State further finds that the normal effective date of these amendments, 35 days after publication, should be waived and these amendments should be made effective upon filing. The normal effective date should be waived because these amendments are necessary components of preparations for the upcoming primary election. In addition, these amendments confer a benefit on the voting public and county commissioners by ensuring that election administration practices are uniform throughout the state.

These amendments are also published herein under Notice of Intended Action as **ARC 9990B** to allow for public comment.

After analysis and review of this rule making, no impact on jobs has been found.

These amendments are intended to implement Iowa Code chapters 43, 48A, 49, 50 and 53.

These amendments became effective January 17, 2012.

The following amendments are adopted.

ITEM 1. Amend subrule 21.1(13) as follows:

21.1(13) *Military emergencies.* A voter who is entitled to vote by absentee ballot under the federal Uniformed and Overseas Citizens Absentee Voting Act (UOCAVA) and Iowa Code chapter 53, division II, "Absent Voting by Armed Forces," may return an absentee ballot via electronic transmission only if the voter is located in an area designated by the U.S. Department of Defense to be an imminent danger pay area or if the voter is an active member of the army, navy, marine corps, merchant marine, coast guard, air force or Iowa national guard and is located outside the United States or any of its territories. Procedures for the return of absentee ballots by electronic transmission are described in subrule 21.320(4).

ITEM 2.   Adopt the following **new** rule 721—21.11(49):

721—21.11(49) Statement to provisional voter. Each voter who is required to vote a provisional ballot at the polls on election day shall be given a statement from the precinct election officials which shall be in substantially the following form:

Statement to Person Casting a Provisional Ballot
(To be completed by Precinct Official and given to Voter)

Voter's Name: _____

Reason for Provisional Ballot (check all that apply):

☐ Voter did not have proper identification (see "What you need to provide" below)
☐ Absentee voter with no ballot to surrender
☐ Voter was challenged by another registered voter
   Reason: _____

What you need to provide before your ballot will count:

☐ Photo ID that has not expired and contains your name and picture
☐ One of the following that has not expired: Iowa driver's license, out-of-state driver's license, non-driver ID, U.S. passport, U.S. military ID, ID card issued by an employer, student ID issued by Iowa high school or college
☐ One of the following showing your name and current address: bank statement, paycheck, utility bill, property tax statement, residential lease, government check, or other government document

Deadline: _____a.m./p.m., _____ (date)
Mail or Deliver Evidence to: _____, County Auditor
County Auditor Address: _____
_____

If proof of ID or residence is required, your provisional ballot may be counted if you bring a copy of the identification listed above to this precinct before the polls close today or to the county auditor at the above address by the deadline indicated above. If your ballot is not counted, you will be notified by mail of the reason why it was not counted.

Your right to vote will be reviewed by the Special Precinct Board. You have the right and are encouraged to make a written statement and submit additional written evidence to the Board supporting your qualifications as a registered voter.

_____ _____
Precinct Election Official's Signature   Date

This rule is intended to implement Iowa Code section 49.81.

ITEM 3.   Adopt the following **new** rule 721—21.22(49):

721—21.22(49) Photocopied ballot procedures. If it is necessary for ballots to be photocopied pursuant to Iowa Code section 49.67, the commissioner shall use the "Request for Additional Ballots" form posted on the state commissioner's Web site to record the request and resolution thereof. The commissioner shall complete the form, including the reason additional ballots are needed; who made the request for additional ballots and what time the request was made; the number of additional ballots produced; the

manner of production of the additional ballots, including location of production; and the commissioner's signature.

This rule is intended to implement Iowa Code section 49.67.

ITEM 4.   Adopt the following **new** subrule 21.300(14):

21.300(14) *Provisional voting at satellite absentee voting stations.*   If it is necessary for a voter to cast a provisional ballot at a satellite absentee voting station, the voter shall receive the same ballot style as the majority of the voters would receive in the precinct in which the satellite absentee voting station is located.

ITEM 5.   Amend subrule 21.301(3) as follows:

21.301(3) *Absentee ballots received from a voter subsequently assigned "inactive" status.*

a.   The commissioner shall mail an absentee ballot to a voter if a voter's status is changed to "inactive" between the time the voter requested an absentee ballot and the time the absentee ballots are ready to mail. The commissioner shall also separately notify the voter of the requirement to provide identification before the ballot can be counted pursuant to paragraph 21.301(3)*"c."*

b.   The commissioner shall set aside the absentee ballot of a voter whose status is changed to "inactive" pursuant to Iowa Code section 48A.26, subsection 6, after the voter has submitted the voter's absentee ballot. ~~The commissioner shall notify the voter, pursuant to Iowa Code section 53.31, informing the voter that the absentee ballot may be counted if the voter personally delivers or mails a copy of the voter's identification as set forth in Iowa Code section 48A.8 to the commissioner's office before the absentee and special voters precinct board convenes to count absentee ballots, or reconvenes to consider challenged absentee ballots pursuant to Iowa Code section 50.22. If the commissioner does not receive a copy of the voter's identification before the absentee and special voters precinct board reconvenes to consider challenged absentee ballots pursuant to Iowa Code section 50.22, the absentee and special voters precinct board shall reject the absentee ballot.~~

c.   Pursuant to Iowa Code section 53.31, the commissioner shall notify any voter assigned an "inactive" status subsequent to requesting or returning an absentee ballot that the voter's absentee ballot has been challenged and may be counted only if the voter personally delivers or mails a copy of the voter's identification as listed in Iowa Code section 48A.8 to the commissioner's office before the absentee and special voters precinct board convenes to count absentee ballots, or reconvenes to consider challenged absentee ballots pursuant to Iowa Code section 50.22. If the commissioner does not receive a copy of the voter's identification before the absentee and special voters precinct board reconvenes to consider challenged absentee ballots pursuant to Iowa Code section 50.22, the absentee and special voters precinct board shall reject the absentee ballot.

ITEM 6.   Amend paragraph **21.320(4)"a"** as follows:

a.   Electronic transmission of a voted absentee ballot from the voter to the commissioner is permitted only for UOCAVA voters who are underlined located in an area designated as an imminent danger pay area or for active members of the army, navy, marine corps, merchant marine, coast guard, air force or Iowa national guard who are located outside the United States or any of its territories, as provided in subrule 21.1(13). In addition, the absentee ballot may be returned via electronic transmission only if the voter waives the right to a secret ballot. In addition to signing the affidavit required by Iowa Code section 53.13, the voter shall sign a statement in substantially the following form: "I understand that by returning this ballot by electronic transmission$_,$ my voted ballot will not be secret. I hereby waive my right to a secret ballot."

ITEM 7.   Amend paragraph **21.355(2)"b"** as follows:

b.   The voter's options for correcting the defect as follows:

(1)   ~~Requesting~~ The voter may request a replacement ballot; ~~or~~

(2)   ~~Voting~~ The voter may vote at the polls on election day~~.~~; or

(3)   In the event an absentee ballot becomes defective because a voter reregisters to vote in a new precinct or county after casting an absentee ballot, the voter may correct the defect by reregistering to vote in the precinct in which the absentee ballot was cast, provided the voter can still claim residence

for voter registration purposes in the precinct in which the absentee ballot was cast pursuant to Iowa Code sections 48A.5 and 48A.5A. If a voter reregisters after the voter registration deadline listed in Iowa Code section 48A.9 for a particular election, the voter shall be required to follow election day registration procedures as set forth in Iowa Code section 48A.7A, subsection 3.

ITEM 8.   Amend rule 721—21.601(43) as follows:

721—21.601(43) Plan III supervisor district candidate signatures after a change in the number of supervisors or method of election. After the number of supervisors has been increased or decreased pursuant to Iowa Code section 331.203 or 331.204 or the method of electing supervisors has been changed from plan I or plan II to plan III since the last general election, the signatures for candidates at the next primary and general elections shall be calculated as follows:

21.601(1) *Primary election.* Divide the total number of party votes cast in the county at the previous general election for the office of president or for governor, as applicable, by the number of supervisor districts and multiply the quotient by .02. If the result of the calculation is less than 100, the result shall be the minimum number of signatures required. If the result of the calculation is greater than or equal to 100, the minimum requirement shall be 100 signatures.

21.601(2) *Nominations by petition.* If the effective date of the change in the number of districts or method of election was later than the date specified in Iowa Code section 45.1(6), divide the total number of registered voters in the county on the date specified in Iowa Code section 45.1(6) by the number of supervisor districts and multiply the quotient by .01. If the result of the calculation is less than 150, the result shall be the minimum number of signatures required. If the result of the calculation is greater than or equal to 150, the minimum requirement shall be 150 signatures.

This rule is intended to implement Iowa Code chapters 43 and 45.

ITEM 9.   Adopt the following **new** rule 721—22.202(50):

721—22.202(50) Unique race and candidate ID numbers for election night results reporting. All tabulating devices programmed for primary and general elections and for special elections conducted pursuant to Iowa Code section 69.14 shall be programmed using the unique race and candidate ID numbers assigned by the state commissioner. The unique race and candidate ID numbers will be provided to the county commissioners with the candidate certification prepared by the state commissioner.

This rule is intended to implement Iowa Code chapter 50.

ITEM 10.   Adopt the following **new** rule 721—22.203(50):

721—22.203(50) Reporting election night results electronically. For all primary and general elections, the county commissioner shall provide the state commissioner with an electronic results file generated from the county's vote tabulation software system, if any. For special elections conducted pursuant to Iowa Code section 69.14, the county commissioner shall provide election night results in the manner requested by the state commissioner.

This rule is intended to implement Iowa Code chapter 50.

ITEM 11.   Amend subrule 28.3(4) as follows:

28.3(4) Within 15 days of the receipt of a list produced by the state registrar in accordance with 28.3(3), the county registrar shall review the list of likely duplicate or multiple voter registration records and determine the accuracy of the search results. If the voter is found to be registered to vote in another state more recently than in Iowa ~~and that registration has not been canceled, the voter's Iowa registration shall be canceled pursuant to Iowa Code section 48A.30(1)*"b."*~~, the commissioner shall make the voter's status "inactive" and the voter shall be mailed a National Voter Registration Act-compliant confirmation notice. The notice shall contain a statement in substantially the following form:

Information received by this office indicates that you are no longer a resident at the address printed on the reverse side of this card. If this information is not correct, and you still live at that address, please complete and mail the attached postage-paid card at least 10 days before the primary or general election, or at least 11 days before any other election at which you wish to vote. If the information is correct and you have moved within the county, you may update your registration by listing your new address on the card and mailing it back. If you have moved outside the county, please contact a local official in your new location for assistance in registering there. If you do not mail in the card, you may be required to show identification before being allowed to vote in [name of county] County, Iowa. If you do not return the card and you do not vote in an election in [name of county] County, Iowa, on or before (date of second general election following the date of the notice), your name will be removed from the list of voters in that county.